

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

U.S. EQUAL EMPLOYMENT	)	CIV. NO. 10-00549 ACK-BMK
OPPORTUNITY COMMISSION,	)	
	)	FINDINGS AND
Plaintiff,	)	RECOMMENDATION TO DENY
	)	DEFENDANT’S SECOND
vs.	)	REQUEST TO SET ASIDE
	)	DEFAULT JUDGMENT
CAROLYN FRUTOZ-DE HARNE,	)	
ET AL.,	)	
	)	
Defendants.	)	
_____	)	

FINDINGS AND RECOMMENDATION TO DENY DEFENDANT’S SECOND  
REQUEST TO SET ASIDE DEFAULT JUDGMENT

Before the Court is Defendant Carolyn Frutoz-De Harne’s Second Request to Set Aside Default Judgment. (Doc. 69.) After careful consideration of the Request and the supporting and opposing memoranda, the Court finds and recommends that Defendant’s Request be DENIED.<sup>1</sup>

After Defendant failed to appear in the case or challenge the Motion for Default Judgment filed against her, the Court entered Default Judgment on July 18, 2012. (Doc. 54.) Eighteen months after Default Judgment was entered, Defendant moved to set it aside, claiming that she “was not served documents notifying me of the court date.” (Doc. 63.) This Court found that she was personally served the

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<sup>1</sup> The Court elects to decide this Motion without a hearing, pursuant to Local Rule 7.2(d).

Amended Complaint and the Motion for Default Judgment and therefore recommended that her request be denied. (Doc. 66 at 5-7.) Senior District Judge Alan C. Kay adopted that recommendation. (Doc. 67.)

Presently before the Court is Defendant's Second Request to Set Aside Default Judgment. (Doc. 69.) It was filed nearly two years after Default Judgment was entered and it raises the identical argument she raised in her first Request to Set Aside Default Judgment. She contends again that she "was not served documents notifying me of the court date." (Id. at 2.) She explains that the Keahole Place #3108 address where service had been made on her "was a rental unit from 12/1/2010 to 12/1/2011." (Id.) However, the Court found that service of the Motion for Default Judgment was made on Defendant at this address on March 7, 2012, when it was no longer a rental unit. (Doc. 53.) Further, Defendant continues to use this address as her address of record in this case. (Docs. 63 & 69.)

Defendant's Second Request to Set Aside Default Judgment repeats the same argument she made in her original Request to Set Aside Default Judgment. The Court recommended denial of her original Request because she failed to meet her burden to set aside default judgment and because her Request was untimely. Defendant provides no new evidence or new argument to persuade this Court to alter its previous recommendation. The Court therefore recommends, for the same

reasons articulated in its previous Findings and Recommendations (Doc. 66), that Defendant's Second Request to Set Aside Default Judgment be DENIED. (Doc. 69.)

Any Objection to this Findings and Recommendation shall be filed in accordance with the Federal Rules of Civil Procedure and the Court's Local Rules.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, June 20, 2014.



/S/ Barry M. Kurren

Barry M. Kurren  
United States Magistrate Judge

U.S. E.E.O.C. v. Frutoz-De Harne, et al., CIV. NO. 10-00549 ACK-BMK; FINDINGS AND RECOMMENDATION TO DENY DEFENDANT'S SECOND REQUEST TO SET ASIDE DEFAULT JUDGMENT.